

Exhibit I
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United States District Court,
D. Delaware.
COMISIÓN EJECUTIVA, HIDROELÉCTRICA
DEL RÍO LEMPA, Plaintiff,
v.
NEJAPA POWER COMPANY, LLC, Defendant.

C.A. No. 08-135-GMS.
Oct. 14, 2008.

Donald E. Reid, Morris, Nichols, Arsht & Tunnell,
Wilmington, DE, for Plaintiff.

John M. Seaman, Abrams & Laster LLP, Greenville,
DE, Andrew P. Price, Houston, TX, Kevin
O'Gorman, Pro Hac Vice, for Defendant.

MEMORANDUM

GREGORY M. SLEET, Chief Judge.

I. INTRODUCTION

*1 Presently before the court is defendant's motion for reconsideration of the court's July 18, 2008 order granting plaintiff's application pursuant to 28 U.S.C. § 1782.^{FN1} The defendant, Nejapa Power Company, LLC, ("NPC"), argues that reconsideration and vacatur are appropriate for the following reasons: (1) plaintiff failed to provide defendant with notice of its application; (2) plaintiff's application contained material factual misrepresentations; (3) Section 1782 does not apply to private foreign or international arbitrations; and (4) the case law cited by plaintiff's in support of its application is inapposite. For the reasons stated below, the court concludes that there is no basis for reconsideration.

FN1. Plaintiff, La Comisión Ejecutiva Hidroeléctrica del Río Lempa ("CEL") filed its Application for an Order Granting Discovery for Use in a Foreign Proceeding Pursuant to 28 U.S.C. § 1782 on July 3, 2008 (D.I.2).

II. STANDARD OF REVIEW

As a general rule, motions for reconsideration should be granted only "sparingly." *Karr v. Castle*, 768 F.Supp. 1087, 1090 (D.Del.1991). In this district, these types of motions are granted only if it appears that the court has patently misunderstood a party, has made a decision outside the adversarial issues presented by the parties, or has made an error not of reasoning, but of apprehension. *See, e.g., Shering Corp. v. Amgen, Inc.*, 25 F.Supp.2d 293, 295 (D.Del.1998); *Brambles USA, Inc. v. Blocker*, 735 F.Supp. 1239, 1240 (D.Del.1990) (citing *Above the Belt, Inc. v. Mel Bonhannan Roofing, Inc.*, 99 F.R.D. 99(E.D.Va.1983)); *see also Karr*, 768 F.Supp. at 1090 (citing same). Moreover, even if the court has committed one of these errors, there is no need to grant a motion for reconsideration if it would not alter the court's initial decision. *See Pirelli Cable Corp. v. Ciena Corp.*, 988 F.Supp. 424, 455 (D.Del.1998).

III. DISCUSSION

The defendant contends that reconsideration of the court's July 18, 2008 order is warranted. The court disagrees. First, contrary to the defendant's assertion, the court is not convinced that under Section 1782 plaintiff is actually required to provide the defendant prior notice of its application. Indeed, Section 1782 does not expressly require that notice be provided to the party from whom discovery is being sought. Second, it is not readily apparent to the court that the defendant misled or misrepresented the facts regarding the Tribunal's position towards discovery. It is clear from the record that the parties themselves never reached agreement on this issue. The Tribunal's ultimate position on this issue, however, is less clear. Third, the court is not persuaded by the legal authority relied upon by the defendant. In fact, the Supreme Court's decision in *Intel* (and post-*Intel* decisions from other district courts) indicate that Section 1782 does indeed apply to private foreign arbitrations. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 258,

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124 S.Ct. 2466, 159 L.Ed.2d 355 (2004); *In re Roz Trading Ltd.*, 469 F.Supp.2d 1221, 1226-27 (N.D.Ga.2006); *In re Application of Hallmark Capital Corp.*, 534 F.Supp.2d 951, 954-55 (D.Minn.2007). The defendant's arguments simply do not justify reconsideration in this case.

*2 Furthermore, the court is not persuaded (nor has the defendant demonstrated) that it has either patently misunderstood a party, made a decision outside the adversarial issues presented, or made an error of apprehension. The defendant's motion for reconsideration is therefore denied.

IV. CONCLUSION

For the foregoing reasons, the court will deny the defendants' motion for reconsideration.

ORDER

IT IS HEREBY ORDERED that:

1. The defendant's motion for reconsideration is DENIED.

D.Del.,2008.
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